IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. Nos. 24454 and 24455 OF 2005

Date: 22.11.2005

BETWEEN:

Mary Bai Widow's Home, Kodavalur,

Rep. by its Chairman Smt. Kalapati

Mary Suvarna Kumari.

…. PETITIONER

And

1. The District Collector, Nellore District, Nellore and another.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos. 24454 and 24455 OF 2005

COMMON ORDER:

Mary Bai Widow's Home, Kodavalur in Nellore District was assigned an extent of Acs.4.93 in S.No.380/A and Acs.0.22 in S.No.380/B for establishment of a Widow's Home. Smt. Kalapati Mary Suvarna Kumari, who claimed herself as the Chairperson of the Widow's Home, took possession of the land and constructed a destitute home (shed). It appears, a complaint was received by the District Collector alleging that the Chairman of the Home is not running Widow's Home, and that she alienated an extent of Acs.2.00 of land to others. The District Collector directed the second respondent to conduct enquiry and take appropriate action for resumption of land. The second respondent was also directed to send necessary proposals to the Revenue Divisional Officer (RDO) for cancellation of pattadar passbook and title deed given to Mary Bai Widow's Home represented by its Chairperson. The Mandal Revenue Officer (MRO) after recording the statement of the Chairperson of the Home as well as the complainant, issued a show cause notice on 3.06.2005 calling upon the petitioner to submit explanation as to why the land should not be resumed to the Government, duly canceling the assignment. On 21.6.2005 another show

cause notice was issued calling upon the petitioner to explain as to why the pattadar passbook and title deed should not be cancelled. Smt. Mary Suvarna Kumary submitted a statement denying the allegations. The second respondent considered the statement and necessary records, conducted personal inspection of Widow's Home, and cancelled the assignment and ordered resumption of land by proceedings in R.C.No.434 of 2005 dated 20.10.2005. It appears, the Chairperson of the Home did not submit explanation to the show cause notice dated 21.6.2005 for cancellation of pattadar passbook. Therefore, by another proceedings dated 1.7.2005, the MRO cancelled the pattadar passbook. Assailing the proceedings dated 20.10.2005 ordering resumption, W.P.No.24454 of 2005 is filed. The other writ petition being W.P.No.24455 of 2005 is filed against the proceedings dated 1.7.2005.

The matter was initially listed before this Court on 16.11.2005 and it was adjourned to 21.11.2005 to enable the learned Assistant Government Pleader to get instructions in the matter. On 21.11.2005, the learned Assistant Government Pleader produced the file from the office of the second respondent containing the notices as well as the statements recorded by the MRO. The learned counsel for the petitioner is directed to peruse the file.

The learned counsel for the petitioner submits that the allegations made in the impugned orders that the Chairperson sold an extent of Acs.2.00 of land to third parties, and that she is not running the Widow's Home, are not correct. Secondly, he would urge that the MRO did not apply his mind to the facts of the case and acted according to the directions issued by the District Collector vide letter dated 18.10.2005. Alternatively, he submits that the Collector directed the MRO to take action for cancellation of assignment, and further instructed the MRO to send necessary proposals to RDO for cancellation of pattadar passbook. But the MRO cancelled the pattadar passbook without sending the proposals to the RDO. The learned counsel would urge that the MRO is not competent to cancel the entries in the pattadar passbook.

The learned Assistant Government Pleader for Revenue (General) submits that the MRO followed due process of law in issuing notices, recording statements of the Chairperson and visiting the Widow's Home to verify whether the land is being put to proper use or not, and therefore, the decision making process does not suffer from any infirmity or illegality. He also submits that by the time the Collector's communication dated 18.10.2005 was received by the MRO, the pattadar passbook was cancelled through proceedings dated 1.7.2005.

This Court has perused the file and finds that the members of the Centenary Baptist Church, North Rajupalem, Kodavaluru Mandal gave a complaint on 21.4.2005 to the District Collector alleging that the Chairperson of the Home sold Acs.2.00 of land, and that she did not evince any interest in running the Widow's Home. A number of similar representations were also made. A copy of the complaint appears to have been given to the MRO, based on which the MRO conducted enquiry. During the enquiry, the MRO recorded the statement of the Chairperson Smt. Mary Suvarna Kumari on 30.4.2005 and also the statement of M/s. Ilaiah, B.S. Rao, and B. Danam,

members of the Centenary Baptist Church, and conducted personal inspection of the Widow Home. During the personal inspection, the MRO found that there was only one Widow. It was further brought to the notice of this Court by the learned Assistant Government Pleader that at present the sheds are empty and no widows are being looked after by the Home. Insofar as the cancellation of pattadar passbook is concerned, the petitioner did not make any explanation though the show cause notice was sent on 21.6.2005 to Mary Suvarna Kumari. Only on that ground the pattadar passbook was cancelled and the land was ordered to be resumed. Therefore, insofar as cancellation of assignment and resumption of land under Board Standing Order 15 is concerned, this Court does not find any infirmity in the action initiated by the MRO.

The District Collector directed the MRO to submit necessary proposals for cancellation of pattadar passbook to RDO presumably keeping in view Rule 13(2) of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989. It is no doubt true that by the time the letter of the District Collector dated 18.10.2005 was received, the MRO had already cancelled the pattadar passbook. But, having regard to Rule 13, this Court is of the view that the exercise for cancellation of pattadar passbook and title deed given to the petitioner ought to have been taken up by the RDO.

In the result, W.P.No.24454 of 2005, which is filed challenging the proceedings dated 20.10.2005 of the MRO ordering resumption of land in S.Nos.380/A and 380/B, is dismissed as this Court does not find any infirmity or illegality in the impugned order passed by the MRO. Insofar as W.P.No.24455 of 2005 is concerned, the petitioner is given liberty to file an appeal before the RDO within a period of two weeks from the date of receipt of a copy of this order along with necessary material, whereupon the RDO shall entertain the appeal and pass appropriate orders within a period of four weeks from the date of presentation of the appeal. Writ Petition No.24455 of 2005 is accordingly disposed of at the admission stage.

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(**V.V.S. RAO, J.)**

22nd November, 2005

Note: Issue C.C. in one week

(By order)/ Js.